

4/7/03 - (4)

Site Plan Special Permit/Special Permit # 12/13/02-386
Palmer Family Trust
350 Great Road (Shupert III)

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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Palmer Family Trust (hereinafter the Petitioner) for the property located at 350 Great Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map D-4 Parcels 17, 2, 4, 10, 17, 39, 17-1, 7, and 16.

This Decision is in response to an application submitted to the Board on December 13, 2002 by the Petitioner for a Site Plan Special Permit under Section 10.4 and Special Permit under Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct a 200 dog kennel.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on February 10, 2003 at 7:15 P.M. and continued until February 24, 2003 at 7:15 P.M. in the Selectmen's Hearing Room at the Acton Town Hall. Board members William Shupert III, Peter Ashton, F. Dore` Hunter, and Pam Harting-Barrat were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received December 13, 2002, a booklet containing a certified abutters list, USE description, other permits, record plan, drainage calculations earth removal calculations, traffic study and water balance calculations. Sound Report prepared by Epsilon Associates dated February 20, 2003. Seven-sheet set of engineered plans dated December 2002 revised February 5, 2003. A landscape plan dated December 2002 and a two sheet set of building plans.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated February 5, 2003
2. Town Planner dated January 15, 2003
3. Fire Chief dated January 23, 2003
4. Municipal Properties Director dated December 23, 2002
5. Engineering Administrator dated January 13, 2003
6. Health Director dated January 16, 2003
7. Recreation Director dated December 20, 2002
8. Transportation Advisory Committee dated January 15, 2003

Exhibit III

The following public comments were received:

Charlie Kadlec dated February 11, 2003
Michael Costello
Tack Palmer dated February 11, 2003
Robert Lessard dated February 14, 2003

Exhibit I is hereinafter referred to as the Plan

1.0 Findings and Conclusions

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Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in Limited Business Zoning District and Zone 2 of the Groundwater Protection District and the USE is allowed by Special Permit in the Limited Business Zoning District and Zone 2. The Plan does not provide for storage of hazardous materials nor is hazardous material storage allowed.
- 1.2 The Plan has been revised to reflect Engineering Comments except the revisions should be shown consistently on all sheets.
- 1.3 The proposed 200 dog kennel will replace an existing 200 dog kennel.
- 1.4 The sound engineer recommends a solid six foot high fence be installed on the east side of the kennel. The Board adopts this recommendation as a requirement.
- 1.5 The sound engineer recommends whenever practical the west side kennels should be occupied first. The Board adopts this recommendation as a requirement.
- 1.6 During the hearing several neighbors spoke of their concern about future noise levels. The Board recognizes that the existing kennel made noise and the new kennel will also make noise. The sound engineer indicates the proposed layout will decrease noise levels. Any complaints concerning increase in noise shall be directed to the Building Commissioner in writing. The Commissioner shall forward the complaints to the kennel owner to resolve. The Board reserves the right to reopen the hearing if the kennel owner does not, or is not able to, appropriately resolve any barking dog noise complaints related to the relocation of the facility. The Board therefore reserves its right in such a situation to require additional sound proofing and/or limit the number of dogs in the facility.
- 1.7 The Plan as herein modified:
 - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
 - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
 - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
 - Is consistent with the Master Plan.
 - Is in harmony with the purpose and intent of this Bylaw.
 - Will not be detrimental or injurious to the neighborhood in which it is to take place.
 - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested Site Plan Special Permit and Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

2.0 **Plan Modifications**

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Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

2.1 The Plan shall be revised to be consistent on all sheets. The Plan shall include a solid 6 foot fence.

3.0 Conditions

- 3.1 The Board reserves the right to reopen the hearing to hear noise complaints. The Board may require additional soundproofing or limit the number of dogs as provided in 1.6.
- 3.2 Prior to occupancy or use of any new building constituting a part of the project, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision, all nonconforming signs shall be removed prior to the issuance of the Building Permit.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.

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- 4.7 This Site Plan Special Permit/Special Permit shall lapse on March 24, 2005 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

5.0 **Appeals**

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of ,2003

William Shupert III, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Palmer Family Trust has passed and there have been no appeals made to this office.

Date

Edward J Ellis, Town Clerk

cc: Petitioner
Building Commissioner
Planning Board
Engineering
Conservation
Director of Municipal Properties
Board of Health
Town Clerk
Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury